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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 15.07.2026
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\+ **CRL.REV.P.(NI) 230/2026 & CRL.M.A. 19750/2026, CRL.M.(BAIL) 1285/2026**

SUSHIL PRASAD VERMA .....Petitioner

Through: Ms. Puja Bhusari Soni & Mr. Deepjyot Singh, Advs.

versus

NARESH KUMAR .....Respondent

Through: None.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

MADHU JAIN, J. (ORAL)

1. This hearing has been done through hybrid mode

2. The petitioner has filed the present revision petition under Sections 438 and 442 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter, '*BNSS*'), assailing the judgment dated 06.08.2024 passed by the learned Additional Sessions Judge-04, North District, Rohini Courts, Delhi (hereinafter, '*Appellate Court*') in ***Criminal Appeal No. 173/2023***, whereby the appeal filed by the petitioner against the judgment of conviction dated 17.04.2023 and the order on sentence dated 17.05.2023, passed by the learned Metropolitan Magistrate-03, North District, Rohini Courts, Delhi (hereinafter, '*Trial Court*') in ***Complaint Case No. 581/2018***, under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter, '*NI Act*'), was

dismissed.

3. Along with the petition, ***CRL.M.A. 19750/2026*** has been filed under Section 5 of the Limitation Act, 1963 read with Sections 438, 442 and 528 of the BNSS, seeking condonation of delay of 603 days in filing the petition.

FACTUAL BACKGROUND

4. The case set up by the respondent/complainant is that the parties were on friendly terms, and in December, 2016, the petitioner approached him for a friendly loan of Rs.2,55,000/- for his personal requirement, which was advanced to him in cash. Towards discharge of this liability, the petitioner issued cheque bearing no. 544430 dated 09.05.2017 for Rs.2,55,000/-, drawn on Punjab National Bank, Kamla Nagar, Delhi, in favour of the respondent.

5. On presentation, the cheque was returned dishonoured with the remarks "*Funds Insufficient*" *vide* return memo dated 26.05.2017. The respondent served a legal demand notice dated 09.06.2017 (Ex. CW1/3) through counsel at both the addresses of the petitioner. The demand was not met, and the complaint under Section 138 of the NI Act was instituted on 12.07.2017.

6. Notice under Section 251 CrPC was framed against the petitioner on 14.11.2018, to which he pleaded not guilty and claimed trial. The defence, as recorded that day in his own statement, was as under:

> *"I have took a loan of Rs. 29,200/- from the complainant, which I have paid to the complainant alongwith at interest of 5%. At the time of taking loan, complainant took 12 blank signed cheques from me as security with assurance of their return after repayment of loan. However, after return of the said loan amount, the said cheques were not returned back to me. Complainant has misused cheque in question."*

7. In evidence, the respondent examined himself as CW-1 by way of affidavit (Ex. CW1/A) and proved the original cheque (Ex. CW1/1), the cheque return memo (Ex. CW1/2), the legal notice (Ex. CW1/3), the postal receipts (Ex. CW1/4) and the tracking report (Ex. CW1/5). On an application filed by the petitioner under Section 145(2) of the NI Act, allowed *vide* order dated 14.10.2019, CW-1 was cross-examined on 17.02.2020.

8. In his statement under Section 313 CrPC recorded on 16.12.2022, the petitioner took a different stand. He denied having taken any loan from the complainant and stated that the loan of Rs.29,200/- had been taken from one Kamal Singh, described by him as the partner of the complainant. He claimed to have repaid a sum of Rs.38,900/- into the bank account of Kamal Singh. He further stated that the complainant and Kamal Singh had obtained 12 blank signed cheques from him, apart from getting several vouchers signed, and that both of them had filed false cheque bouncing cases against him. He denied any liability towards the complainant and opted to lead defence evidence.

9. In defence, the petitioner examined himself as DW-1. In his examination-in-chief, he deposed that he had taken Rs.29,200/- from Kamal Singh on 06.04.2016 and had paid Rs.6,500 to Kamal Singh through cheque on 28.04.2016, placing on record a copy of his bank passbook (Ex. DW1/1). He further deposed that he had given *six* blank signed cheques to the complainant and Kamal Singh as security for the loan. According to him, one such cheque bearing no. 488639 was misused by filling in an amount of Rs.38,900/- and was presented on 08.03.2017, and the cheque in question bearing no. 544430, as also another cheque bearing no. 488621 for Rs.2,75,000/-, were similarly misused to extort money from him.

10. In cross-examination, DW-1 made the following admission:

> *"It is correct that the cheque in question Ex. CW1/1 belongs to me. It is also correct that the signature which is on Ex. CW1/1 is mine. The addresses given in the memo of parties of the complaint are mine. It is correct that the addresses mentioned in the legal notice Ex. CW1/3 is also mine. It is correct that I am still residing in the same address which is mentioned in the Ex. CW1/3. I do not know the cheque in question was dishonored or not. It is correct that I know the cheque in question was dishonoured on 26.05.2017. Again said, I know about all the details after the filing of the case. I did not received the legal notice Ex CW1/3. It is correct that the address mentioned on the legal notice Ex. CW1/3 is mine. I know the complainant Naresh Kumar since 2016."*

11. Upon appreciation of the evidence, the learned Trial Court convicted the petitioner for the offence punishable under Section 138 of the NI Act *vide* judgment dated 17.04.2023. The learned Trial Court held that the foundational facts stood undisputed, since the cheque in question belonged to the petitioner, bore his signatures and was drawn on an account maintained by him, its dishonour was proved, and the addresses on the complaint and the legal notice stood admitted. The presumptions under Sections 118(a) and 139 of the NI Act consequently arose in favour of the complainant. The defence was found to be ever changing and untenable. No complaint regarding the alleged misuse had ever been made, and it was held illogical that six cheques would be handed over as security for a loan of a mere Rs.29,200/-.

12. By order on sentence dated 17.05.2023, the petitioner was sentenced to undergo simple imprisonment for six months and to pay compensation of Rs.3,69,750/-, along with interest @ 9% per annum from 2017, and in default

of payment of compensation, to undergo further simple imprisonment for six months.

13. The appeal filed by the petitioner was dismissed by the learned Appellate Court *vide* the impugned judgment dated 06.08.2024. On a consideration of the Trial Court record, the learned Appellate Court noticed the shifting stands taken by the petitioner at the framing of notice, in the statement under Section 313 CrPC and in the defence evidence, and observed that no complaint regarding the alleged misuse of the cheque had ever been made to the police or any other authority, nor was any such complaint proved on record. Holding the defence to be bald and contradictory, it concluded that the presumptions under Sections 118 and 139 of the NI Act remained unrebutted, and that the judgment of conviction and the order on sentence were free from any illegality, infirmity or perversity.

14. Aggrieved thereby, the petitioner has preferred the present revision petition.

SUBMISSIONS ON BEHALF OF THE PETITIONER

15. Learned counsel for the petitioner submits that the petitioner had taken a loan of a small amount of Rs.29,200/- from Kamal Singh, which he repaid in installments. At the time of obtaining the loan, he had handed over blank signed cheques to Kamal Singh as security. The respondent, who was acquainted with Kamal Singh, took over the said cheques from him and misused them. The learned Appellate court as well as the learned trial court failed to appreciate this position.

16. Learned counsel further submits that the respondent admitted in his cross-examination that he had no documentary proof of the alleged loan of

Rs.2,55,000/- except the cheque, and that no witness was present when the money was allegedly advanced. The respondent, who is himself engaged in the business of financial consultancy and claims to pay income tax, could not, in the ordinary course, have advanced such a substantial amount in cash without any documentation. The conviction, it is contended, rests on the bare word of the respondent.

17. On the aspect of delay, learned counsel submits that, after dismissal of the appeal, the petitioner engaged his previous counsel, paid the requisite fees and signed the papers for filing the revision petition. It is submitted that the petitioner was repeatedly assured that the petition had been filed and learnt only towards the end of 2025 that no revision petition had in fact been instituted. Thereafter, he approached the Delhi High Court Legal Services Committee and filed the present petition. It is contended that the petitioner, being an uneducated litigant, had *bona fide* relied upon his previous counsel and ought not to suffer for the latter's default.

18. In support of the prayer for condonation of delay, learned counsel for the petitioner placed reliance upon a catena of decisions of the Supreme Court to contend that the expression "*sufficient cause*" deserves a liberal construction and that a litigant ought not to suffer for the default of his counsel.

FINDINGS AND ANALYSIS

19. This Court has heard learned counsel for the petitioner and has perused the material on record.

CRL.M.A. 19750/2026 *(*CONDONATION OF DELAY*)*

20. The delay of 603 days is substantial, and the limitation for filing the

revision had expired long before the petition was presented. The explanation advanced by the Petitioner has two parts. For the period from 06.08.2024 till the end of the year 2025, which is the longest and decisive stretch of the delay, the explanation rests entirely on the assurances said to have been given by the previous counsel. For the period thereafter, reliance is placed on the time taken in approaching the Delhi High Court Legal Services Committee, in obtaining the certified copy, and on the intervening summer vacation.

21. A perusal of the condonation application shows that the first part of the explanation, though narrated in detail, is wholly unsubstantiated. No receipt of the fees said to have been paid is placed on record. No affidavit of the previous counsel is filed. No complaint was lodged against the said counsel with the Bar Council or any other authority, even after the petitioner allegedly discovered that he had been misled for over a year. The dates of the repeated visits and inquiries are not disclosed, and even the discovery of the true position is placed vaguely "*towards the end of the year 2025*". An allegation of this nature against an erstwhile counsel, unsupported by any material, cannot be accepted at face value.

22. The plea also does not sit well with the own case of the petitioner. The application asserts that he appeared before the learned Trial Court and the learned Appellate Court on each and every date of hearing. The petitioner has contested this case at every stage since 2018. A perusal of the record shows that he appeared at the framing of notice, moved an application under Section 145(2) of the NI Act, cross-examined the complainant, made his statement under Section 313 CrPC, stepped into the witness box in his defence and prosecuted an appeal. A litigant of such stated diligence would not, for about sixteen months, rest content with bare oral assurances without once asking for

the case number, a copy of the petition said to have been filed, or a date of hearing.

23. The plea of illiteracy takes the matter no further. Illiteracy is not, by itself, a ground to condone delay, and it does not absolve a litigant of ordinary diligence, least of all a litigant so conversant with court proceedings. The conduct disclosed is negligence, not a bona fide impression created by counsel.

24. The legal position admits of no doubt. In ***Thirunagalingam v. Lingeswaran, 2025 INSC 672***, the Supreme Court reiterated that while considering a plea for condonation of delay, the first and foremost duty of the Court is to ascertain the *bona fides* of the explanation offered, and only when the explanation and the opposition to it stand on an equal footing may the court look to the merits of the main matter. The relevant portion of the judgment is reproduced hereinbelow: -

> *"31. It is a well-settled law that while considering the plea for condonation of delay,* ***the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter.*** *Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.*
>
> *32.* ***Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party****."*

25. The decisions relied upon by learned counsel for the petitioner do not carry the case any further. The case of ***Collector, Land Acquisition, Anantnag v. Mst. Katiji and Ors., (1987) 2 SCC 107*** commends a liberal, justice-oriented construction of "*sufficient cause*", but does not dispense with the requirement of a *bona fide* and acceptable explanation. Equally, the principle laid in ***Rafiq v. Munshilal, (1981) 2 SCC 788,*** and ***Concord of India Insurance Co. Ltd. v. Nirmala Devi, (1979) 4 SCC 365*** that a litigant ought not to suffer for the default of his counsel, protects a litigant whose account of such default is credible and established on record. None of these decisions lays down that a bare and unsupported allegation against a previous counsel must, in every case, be accepted as "*sufficient cause*".

26. Considering the legal position and the facts noted above, this Court is of the view that the explanation offered does not constitute "*sufficient cause*". Condonation of delay is declined, and ***CRL.M.A. 19750/2026*** is dismissed.

27. Since learned counsel for the petitioner has, nonetheless, addressed arguments on the merits, this Court has also examined whether any case for interference with the concurrent findings is made out.

ON MERITS

28. The conviction of the petitioner rests on concurrent findings of the learned Trial Court and the learned Appellate Court. The question is whether those findings suffer from any illegality or perversity.

29. The NI Act raises two presumptions in favour of the holder of a cheque. Under Section 118(a), it shall be presumed, until the contrary is proved, that every negotiable instrument was made or drawn for consideration. Under

Section 139, it shall be presumed, unless the contrary is proved, that the holder of a cheque received it in discharge, in whole or in part, of a debt or other liability. Both presumptions are rebuttable, and the standard of proof required of the accused to rebut them is that of preponderance of probabilities. In ***N. Vijay Kumar v. Vishwanath Rao N., 2025 SCC OnLine SC 873***, the Supreme Court, reiterating the principles summarised in ***Basalingappa v. Mudibasappa, (2019) 5 SCC 418***, observed as under:

> *"25.1. Once the execution of cheque is admitted Section 139 of the Act mandates a presumption that the cheque was for the discharge of any debt or other liability.*
>
> *25.2. The presumption under Section 139 is a rebuttable presumption and the onus is on the accused to raise the probable defence. The standard of proof for rebutting the presumption is that of preponderance of probabilities.*
>
> *25.3. To rebut the presumption, it is open for the accused to rely on evidence led by him or the accused can also rely on the materials submitted by the complainant in order to raise a probable defence."*

30. In ***Rajesh Jain v. Ajay Singh, (2023) 10 SCC 148***, the Supreme Court explained the effect of the presumptive device in the following terms:

> *"As soon as the complainant discharges the burden to prove that the instrument, say a cheque, was issued by the accused for discharge of debt, the presumptive device under Section 139 of the Act helps shifting the burden on the accused... Until this evidential burden is discharged by the accused, the presumed fact will have to be taken to be true, without expecting the complainant to do anything further."*

31. It was further noticed therein that the presumption takes effect even

where the accused contends that a blank signed cheque leaf was voluntarily handed over by him. Equally settled is the position, noticed in ***Kumar Exports v. Sharma Carpets, (2009) 2 SCC 513***, that a bare denial of the passing of consideration or of the existence of a debt does not serve the purpose of the accused, something which is probable has to be brought on record.

32. Applying the aforesaid principles to the facts of the present case, the foundational facts stand established. The petitioner admitted in his cross-examination as DW-1 that the cheque Ex. CW1/1 belongs to him and bears his signatures. The dishonour of the cheque on 26.05.2017 for "*Funds Insufficient*" stands proved by the return memo (Ex. CW1/2), and the petitioner himself admitted knowledge of the dishonour. The denial of receipt of the statutory notice is a bare one. The petitioner admitted that the address on the legal notice Ex. CW1/3 is his and that he continues to reside there, and the dispatch of the notice is supported by the postal receipts (Ex. CW1/4) and the tracking report (Ex. CW1/5). The presumptions under Sections 118(a) and 139 of the NI Act therefore come into operation, and the fate of the petition turns on whether the petitioner raised a probable defence to rebut them.

33. At the framing of notice on 14.11.2018, the stated case of the petitioner was that he had taken the loan of Rs.29,200/- from the complainant, that he had repaid it to the complainant with interest at 5%, and that the complainant had taken 12 blank signed cheques from him as security.

34. By the time of his statement under Section 313 CrPC on 16.12.2022, the lender had changed. The petitioner now denied having taken any loan from the complainant. The loan, according to him, was from Kamal Singh, the repayment was of Rs.38,900/- into the bank account of Kamal Singh, and the 12 blank signed cheques had been obtained by the complainant and Kamal

Singh together.

35. As DW-1 on 24.02.2023, the version changed once again. The blank signed cheques were now *six*, not twelve. The repayment deposed to was of Rs.6,500/- through cheque on 28.04.2016. Significantly, the figure of Rs.38,900/-, which in the Section 313 CrPC statement was the amount repaid by the petitioner, now became the amount allegedly filled in on a misused cheque bearing no. 488639.

36. On a comparative reading of these statements, the identity of the lender, the recipient and the number of the alleged security cheques, and the mode, amount and payee of the alleged repayment have each changed from stage to stage. A defence whose foundation shifts every time it is stated is not a probable defence. The contradictions are not peripheral rather they strike at the root of the case by which the petitioner seeks to displace the statutory presumptions.

37. The solitary document produced in defence, the bank passbook Ex. DW1/1, in fact cuts the other way. A perusal of the passbook shows a credit of Rs.29,200/- received by the petitioner through NEFT from Kamal Singh on 06.04.2016, and a single payment of Rs.6,500/- made to Kamal Singh through cheque bearing no. 544429 on 28.04.2016. The document thus corroborates the receipt of the loan from Kamal Singh but falls far short of establishing its repayment. A payment of Rs.6,500/- squares neither with the claim of repayment of Rs.29,200/- with 5% interest, nor with the sum of Rs.38,900/- asserted in the Section 313 statement, nor with the installments now pleaded. The passbook contains no entry of any payment to the complainant at all. What the passbook does reflect, as noticed by the learned Trial Court, is a payment of Rs.38,900/- to one Jyoti Singh on 08.03.2017, the very figure

claimed in the Section 313 statement to have been repaid to Kamal Singh, and the very transaction described in the defence evidence as the misuse of cheque bearing no. 488639.

38. The passbook brings out a further circumstance. The payment of Rs.6,500/- to Kamal Singh on 28.04.2016 was made through cheque bearing no. 544429, the leaf immediately preceding the cheque in question bearing no. 544430, drawn on the same account. The cheque book, therefore, remained in the possession and use of the petitioner well after 06.04.2016, the date on which, according to him, the blank signed cheques had been handed over as security. This sits uneasily with the defence and lends credence to the case of the respondent that the cheque in question was issued later, in 2017.

39. The defence is improbable even on its own terms. As observed by the learned Trial Court, it defies logic that for a loan of a mere Rs.29,200/-, the petitioner would hand over six or, on his earlier version, twelve blank signed cheques as security.

40. The conduct of the petitioner compounds the improbability. On his own showing, the loan of Rs.29,200/- was taken on 06.04.2016 and stood repaid shortly thereafter. Yet, at no point did he seek the return of the blank signed cheques admittedly handed over as security. There is no demand, no correspondence and no protest on record. The inaction persisted even after, on his own deposition, the first alleged misuse of one such cheque occurred on 08.03.2017. Even then, he took no step to retrieve the remaining cheques in the two months before the cheque in question was presented.

41. Another circumstance which weakens the defence is the complete absence of any complaint. The petitioner alleges misuse of at least three cheques and attempts to extort money from him. It is, however, not his case

that he ever lodged any complaint with the police or any other authority, either against the respondent or against Kamal Singh, in respect of the alleged misuse. A person whose signed cheques are being filled in and presented for lakhs of rupees, one after another, does not remain a silent spectator. Both the courts below have concurrently noticed this circumstance, and the silence of the petitioner is wholly inconsistent with the defence set up by him.

42. The respondent, on the other hand, has maintained a consistent case throughout. His case has been that a friendly loan of Rs.2,55,000/- was advanced in cash in December, 2016, and that the cheque in question was issued towards its discharge. Nothing material was elicited in his cross-examination to dent this case. The admission that he holds no documentary proof of the cash loan apart from the cheque, and that no witness was present when the money was advanced, does not assist the petitioner. The transaction pleaded is a friendly loan in cash between persons known to each other, and, more importantly, once the petitioner failed to discharge the evidential burden cast upon him, the presumed fact must be taken to be true without expecting the complainant to prove anything further, as held in ***Rajesh Jain (supra)***.

43. Considering the legal position and the facts discussed above, this Court is of the view that the petitioner failed to raise a probable defence and has not rebutted the presumptions under Sections 118(a) and 139 of the NI Act. The concurrent findings of conviction are based on a proper appreciation of the evidence on record and suffer from no illegality or perversity warranting interference.

44. No infirmity is shown in the sentence either. The petitioner has been sentenced to simple imprisonment for six months along with compensation of Rs.3,69,750/-, being the cheque amount with interest @ 9% per annum from

2017. The sentence is proportionate to the offence and calls for no interference.

CONCLUSION

45. In view of the foregoing, ***CRL.M.A. 19750/2026*** seeking condonation of delay of 603 days in filing the petition is dismissed. Even otherwise, on merits, no ground is made out for interference with the impugned judgment dated 06.08.2024 passed by the learned Appellate Court, upholding the judgment of conviction dated 17.04.2023 and the order on sentence dated 17.05.2023 passed by the learned Trial Court.

46. The revision petition is accordingly dismissed. Consequently, ***CRL.M.(BAIL) 1285/2026*** does not survive and is dismissed as infructuous. All other pending applications, if any, also stand disposed of.

47. The petitioner, if not already in custody, shall surrender before the learned Trial Court on 30.07.2026 for serving the sentence, failing which the learned Trial Court shall take steps in accordance with law to ensure execution of the order on sentence.

48. A copy of this judgment be sent immediately to the learned Trial Court for information and necessary action.

49. The order be uploaded on the website forthwith.

MADHU JAIN
(JUDGE)

JULY 15, 2026/ys/m